

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA	§	
	§	
vs.	§	CRIMINAL NO:
	§	SA21-CR-154 (FB) (1)
(1) JUAN ENRIQUE KRAMER	§	

**GOVERNMENT'S RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION FOR BOND**

TO THE HONORABLE FRED BIERY, UNITED STATES DISTRICT JUDGE:

COMES NOW the United States Attorney for the Western District of Texas, by and through the undersigned Assistant United States Attorney, and files its response in opposition to Defendant Juan Enrique Kramer's Motion for Bond (ECF No. 109) and respectfully shows the Court as follows:

I. Defendant's Bond Status

On April 9, 2021, Defendant Juan Enrique Kramer was arrested on the instant matter and held until his initial appearance on April 12, 2021 before United States Magistrate Judge Henry Bemporad. ECF No. 20. At his initial appearance, the Government moved for detention due to risk of flight, and the matter was continued for a detention hearing. ECF No. 22. On April 16, 2021, Defendant Kramer filed a waiver of his detention hearing and was ordered detained pending trial. ECF No. 47.

On June 24, 2021, Defendant filed a motion for bond. ECF No. 73. This matter was referred to Judge Bemporad, and a hearing was held on July 1, 2021 and July 6, 2021. ECF Nos. 79, 80. At the conclusion of the hearing, Judge Bemporad denied Kramer's motion for bond and continued his pre-trial detention. ECF No. 81.

Defendant filed another motion for bond with the District Court on September 28, 2021. ECF No. 100. This motion was denied by this Court on October 4, 2021.

Defendant has now again filed a motion for bond. ECF No. 109.

II. There Has Still Been No Change in Material Circumstance Since Defendant's Previous Bond Hearing

As noted above, this is the Defendant's third motion for bond in this matter, and his second motion post-hearing. When a hearing has already been held on the issue of detention, Title 18, United States Code, Section 3142(f) states that the

hearing *may* be reopened before or after a determination by the judicial officer, at any time before the trial *if* the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue [of release].

18 U.S.C. § 3142(f) (emphasis added). Thus, it is within the Court's discretion to deny Defendant's motion without a hearing if there is no new evidence presented after the initial hearing. United States v. Stanford, 367 F. App'x 507, 511 (5th Cir. 2010) (district court did not abuse its discretion in denying Defendant's bond motion because it presented no new circumstances).

The only material difference between the Defendant's second bond motion (ECF No. 100) and his third bond motion (ECF No. 109) is that Defendant claims his immigration status has changed. Specifically, the motion claims that "Mr. Kramer has been issued a temporary change in his immigration status. He has filed form I-290B and his status is under review by US. Citizenship and Immigration Services." ECF No. 109, ¶ III.

Form I-290B is used to appeal a decision of the United States Citizenship and Immigration Services (USCIS). *See*, <https://www.uscis.gov/i-290b>. In the instant matter, the decision appealed by the Defendant is the April 8, 2021 USCIS decision denying the Defendant's application for permanent residency, leaving him without legal status to be present within the

United States. Ex. 1. As noted in the April 8, 2021 USCIS decision, as well as at the initial bond hearing before Judge Bemporad, Defendant already appealed the initial denial of his application using Form I-290B in October of 2018, and this appeal was denied. *Id.* at 2. This same decision notes that a motion to reconsider must be filed within 30 days. *Id.* at 3.

According to the USCIS database, Defendant did indeed file another Form I-290B on or about December 17, 2021. The filing of this form, however, would not cause a “temporary change in immigration status,” as claimed by the Defendant in his motion. The form is an application to appeal a previous decision, and its receipt does not cause any change in status by itself. Furthermore, the application is, on its face, more than seven months past the deadline. Thus, Defendant currently remains non-status, with an active immigration detainer in place. Ex. 2.

Apart from the immigration issue, Defendant does not raise any claims that were not already addressed in his previously denied bond motion or the initial bond hearing. The Court should therefore deny this motion in its entirety as well.

For the record, the Government has no objection or opposition to moving the Defendant to a facility closer to San Antonio.

WHEREFORE, for the foregoing reasons, the Government respectfully requests that the Court deny Defendant Kramer’s Motion for Bond in all respects.

Respectfully submitted,

ASHLEY HOFF
UNITED STATES ATTORNEY

By: /s/ Justin Chung
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of January 2022, the foregoing GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR BOND was filed electronically through the CM/ECF Document Filing System, which will transmit a copy to all parties.

/s/ Justin Chung
JUSTIN CHUNG
Assistant United States Attorney

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vs.

(1) JUAN ENRIQUE KRAMER

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CRIMINAL NO:
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ORDER

CAME TO BE CONSIDERED the Defendant's Motion for Bond in this matter. Having reviewed the Motion, the Government's Response in Opposition, as well as the entire record before the Court, the Defendant's Motion is

DENIED

And Defendant is to remain detained pending the resolution of the matter.

SIGNED AND ENTERED this _____ day of _____, 2022.

THE HONORABLE FRED BIERY
UNITED STATES DISTRICT JUDGE